

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1734-AIR-E TCEQ ID: RN100233998 CASE NO.: 34850
RESPONDENT NAME: Air Liquide Large Industries U.S. LP

Page 1 of 3

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input checked="" type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |

SITE WHERE VIOLATION(S) OCCURRED: Air Liquide Large Industries US, 11400 Bay Area Boulevard, Pasadena, Harris County

TYPE OF OPERATION: Chemical plant

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 31, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Aswath Kalappa, Environmental Specialist, Air Liquide Large Industries U.S. LP, 11400 Bay Area Boulevard, Pasadena, Texas 77507

Mr. Scott A. Swafford, Zone Production Manager, Air Liquide Large Industries U.S. LP, 11400 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 5, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 26, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failed to comply with permitted emissions limits. Specifically, an emissions event occurred on June 20, 2007 at the Steam Methane Reformer (Emission Point No. SMRSTACK) that lasted for 21 hours, resulting in the release of 766.29 pounds ("lbs") of nitrogen oxide. The authorized limit was 36.49 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices and was improperly reported, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit No. 73110, Special Condition No. 1].</p> <p>2) Failed to timely submit an initial report for an emissions event. Specifically, the initial report was not submitted within 24 hours after the discovery of the event [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to submit a complete and accurate initial report for an emissions event. Specifically, on the initial report, the Respondent did not identify the best known cause of the emissions event [30 TEX. ADMIN. CODE § 101.201(a)(2)(H) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$2,068</p> <p>Total Deferred: \$413 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,655</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement improvements to training, design, operation, or maintenance procedures and reporting practices in order to address the June 20, 2007 emissions event and inaccurate and untimely report submitted in conjunction with the event, and to prevent the reoccurrence of similar incidents; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |

| | | |
|---|--|--|
| 4) Failed to submit a complete and accurate initial report for an emissions event. Specifically, on the initial report, the Respondent did not submit the actions taken to correct the emissions event [30 TEX. ADMIN. CODE § 101.201(a)(2)(I) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |
|---|--|--|

Additional ID No(s).: HG0071Q



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned
PCW

1-Oct-2007

19-Oct-2007

Screening

19-Oct-2007

EPA Due

24-Jun-2008

RESPONDENT/FACILITY INFORMATION

Respondent Air Liquide Large Industries U.S. LP
 Reg. Ent. Ref. No. RN100233998
 Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34850

Docket No. 2007-1734-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Bryan Elliott

EC's Team Enforcement Team 4

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

88% Enhancement

Subtotals 2, 3, & 7

\$968

Notes

The penalty was enhanced due to three NOVs for similar violations, seven NOVs for dissimilar violations, and three 1660 style orders. The penalty was reduced due to one NOA.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$55

Approx. Cost of Compliance \$1,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$2,068

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$2,068

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$2,068

DEFERRAL

20%

Reduction

Adjustment

-\$413

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,655

Screening Date 19-Oct-2007

Docket No. 2007-1734-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 34850

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100233998

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 3 | 15% |
| | Other written NOVs | 7 | 14% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 3 | 60% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 1 | -1% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 88%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty was enhanced due to three NOVs for similar violations, seven NOVs for dissimilar violations, and three 1660 style orders. The penalty was reduced due to one NOA.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 88%

| | | |
|---|--|---|
| Screening Date 19-Oct-2007 | Docket No. 2007-1734-AIR-E | PCW |
| Respondent Air Liquide Large Industries U.S. LP | <small>Policy Revision 2 (September 2002)</small> | |
| Case ID No. 34850 | <small>PCW Revision September 19, 2007</small> | |
| Reg. Ent. Reference No. RN100233998 | | |
| Media [Statute] Air | | |
| Enf. Coordinator Bryan Elliott | | |
| Violation Number | <div style="border: 1px solid black; text-align: center;">1</div> | |
| Rule Cite(s) | <div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review ("NSR") Permit No. 73110, Special Condition No. 1</div> | |
| Violation Description | <div style="border: 1px solid black; padding: 5px;">Failed to comply with permitted emissions limits, as documented during an investigation conducted on September 5, 2007. Specifically, an emissions event occurred on June 20, 2007 at the Steam Methane Reformer (Emission Point No. SMRSTACK) that lasted for 21 hours, resulting in the release of 766.29 pounds ("lbs") of nitrogen oxide. The authorized limit was 36.49 lbs/hr. Since this emissions event could have been avoided by good operation practices and was improperly reported, it failed to meet the demonstrations for affirmative defense as found in 30 Tex. Admin. Code § 101.222.</div> | |
| Base Penalty | | <div style="border: 1px solid black; text-align: right;">\$10,000</div> |
| >> Environmental, Property and Human Health Matrix | | |
| OR | Release | Harm |
| | | Major Moderate Minor |
| | Actual | <div style="border: 1px solid black; text-align: center;">x</div> |
| Potential | <div style="border: 1px solid black; text-align: center;"></div> | |
| Percent | | <div style="border: 1px solid black; text-align: right;">10%</div> |
| >> Programmatic Matrix | | |
| | Falsification Major Moderate Minor | |
| | <div style="border: 1px solid black; text-align: center;"></div> | <div style="border: 1px solid black; text-align: center;"></div> |
| | <div style="border: 1px solid black; text-align: center;"></div> | <div style="border: 1px solid black; text-align: center;"></div> |
| Percent | | <div style="border: 1px solid black; text-align: right;">0%</div> |
| Matrix Notes | <div style="border: 1px solid black; padding: 5px;">Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.</div> | |
| Adjustment | | <div style="border: 1px solid black; text-align: right;">\$9,000</div> |
| | | <div style="border: 1px solid black; text-align: right;">\$1,000</div> |
| Violation Events | | |
| Number of Violation Events | | <div style="border: 1px solid black; text-align: center;">1</div> |
| | | <div style="border: 1px solid black; text-align: center;">1</div> Number of violation days |
| <small>mark only one with an x</small> | daily | <div style="border: 1px solid black; text-align: center;"></div> |
| | monthly | <div style="border: 1px solid black; text-align: center;"></div> |
| | quarterly | <div style="border: 1px solid black; text-align: center;"></div> |
| | semiannual | <div style="border: 1px solid black; text-align: center;"></div> |
| | annual | <div style="border: 1px solid black; text-align: center;"></div> |
| | single event | <div style="border: 1px solid black; text-align: center;">x</div> |
| Violation Base Penalty | | <div style="border: 1px solid black; text-align: right;">\$1,000</div> |
| <div style="border: 1px solid black; padding: 10px; text-align: center;">One single event is recommended.</div> | | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test |
| Estimated EB Amount | <div style="border: 1px solid black; text-align: right;">\$50</div> | Violation Final Penalty Total |
| | | <div style="border: 1px solid black; text-align: right;">\$1,880</div> |
| This violation Final Assessed Penalty (adjusted for limits) | | <div style="border: 1px solid black; text-align: right;">\$1,880</div> |

Economic Benefit Worksheet**Respondent** Air Liquide Large Industries U.S. LP**Case ID No.** 34850**Reg. Ent. Reference No.** RN100233998**Media** Air**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|-----|------|-----|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 20-Jun-2007 | 21-Jun-2008 | 1.0 | \$50 | n/a | \$50 |

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper maintenance practices are followed. Date Required is the date of the emission event and Final Date is the date of prospective compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$1,000

TOTAL

\$50

Screening Date 19-Oct-2007

Docket No. 2007-1734-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 34850

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100233998

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 101.201(a)(1)(B) and (a)(2)(H) and (a)(2)(I) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to timely submit a complete and accurate initial report for an emissions event, as documented during an investigation conducted on September 5, 2007. Specifically, on the initial report, the Respondent did not identify the best known cause of the emissions event, did not submit the actions taken to correct the emissions event, and did not submit the report within 24 hours after the discovery of the event.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| | Harm | | |
|-----------|-------|----------|-------|
| Release | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| Falsification | | | x |

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$188

This violation Final Assessed Penalty (adjusted for limits) \$188

Economic Benefit Worksheet**Respondent** Air Liquide Large Industries U.S. LP**Case ID No.** 34850**Reg. Ent. Reference No.** RN100233998**Media** Air**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | \$100 | 20-Jun-2007 | 21-Jun-2008 | 1.0 | \$5 | n/a | \$5 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper reporting practices are followed. Date Required is the date of the emission event and Final Date is the date of prospective compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$100

TOTAL

\$5

Compliance History

| | | | | |
|-------------------------------------|-------------|--------------------------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN600300693 | Air Liquide Large Industries U.S. LP | Classification: AVERAGE | Rating: 3.05 |
| Regulated Entity: | RN100233998 | AIR LIQUIDE LARGE INDUSTRIES US | Classification: AVERAGE | Site Rating: 5.47 |

| | | | |
|---------------|---|----------------------------------|--------------|
| ID Number(s): | AIR OPERATING PERMITS | ACCOUNT NUMBER | HG0071Q |
| | AIR OPERATING PERMITS | PERMIT | 1735 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD096026612 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 31779 |
| | WASTEWATER | PERMIT | TX0102296000 |
| | WASTEWATER | PERMIT | WQ0004330000 |
| | WASTEWATER | PERMIT | TX0102296 |
| | AIR NEW SOURCE PERMITS | PERMIT | 4961 |
| | AIR NEW SOURCE PERMITS | PERMIT | 9346 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG0071Q |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 37485 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 53106 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 55810 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 33713 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 11018 |
| | AIR NEW SOURCE PERMITS | PERMIT | 56212 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 70423 |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4820100073 |
| | AIR NEW SOURCE PERMITS | PERMIT | 73110 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 75225 |
| | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 1011467 |
| | WATER LICENSING | LICENSE | 1011467 |

Location: 11400 BAY AREA BLVD, PASADENA, TX, 77507 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 19, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 19, 2002 to October 19, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Bryan Elliott Phone: 239-6162

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner?

Air Liquide Large Industries U.S. LP
4. If Yes, who was/were the prior owner(s)?

Air Liquide America Corporation
Air Liquide America L.P.
5. When did the change(s) in ownership occur?

01/01/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/13/2004 ADMINORDER 2003-0908-PST-E
Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to demonstrate FA beginning 8/9/02
Effective Date: 03/23/2006 ADMINORDER 2005-1475-IWD-E
Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EFFLUENT LIMITS PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617[G]

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(H)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to report the February 23, 2006, December 28, 2005, December 14, 2005, December 5, 2005, August 11, 2005, November 30, 2005, August 4, 2005, August 3, 2005, and May 15, 2005 emissions events within twenty-four hours and include the total quantity of emissions released.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | |
|----|------------|----------|
| 1 | 03/14/2003 | (221252) |
| 2 | 03/14/2003 | (221256) |
| 3 | 03/14/2003 | (221257) |
| 4 | 03/14/2003 | (221258) |
| 5 | 03/14/2003 | (221259) |
| 6 | 03/14/2003 | (221260) |
| 7 | 03/14/2003 | (221261) |
| 8 | 03/24/2003 | (221253) |
| 9 | 04/10/2003 | (221254) |
| 10 | 05/05/2003 | (146218) |
| 11 | 05/13/2003 | (321892) |
| 12 | 06/12/2003 | (62375) |
| 13 | 07/09/2003 | (321894) |
| 14 | 08/18/2003 | (321895) |
| 15 | 09/08/2003 | (321896) |
| 16 | 10/17/2003 | (321897) |
| 17 | 11/20/2003 | (321898) |
| 18 | 12/18/2003 | (321899) |
| 19 | 01/13/2004 | (257438) |
| 20 | 01/27/2004 | (321900) |
| 21 | 02/17/2004 | (321889) |
| 22 | 03/12/2004 | (321890) |
| 23 | 04/19/2004 | (321891) |
| 24 | 05/14/2004 | (363734) |
| 25 | 06/14/2004 | (321893) |
| 26 | 07/15/2004 | (363735) |
| 27 | 08/13/2004 | (250551) |
| 28 | 08/16/2004 | (363736) |
| 29 | 09/21/2004 | (363737) |
| 30 | 10/21/2004 | (363738) |
| 31 | 12/22/2004 | (388434) |
| 32 | 12/27/2004 | (388435) |
| 33 | 01/18/2005 | (388436) |
| 34 | 02/18/2005 | (425970) |
| 35 | 02/21/2005 | (344847) |
| 36 | 03/22/2005 | (388433) |
| 37 | 04/18/2005 | (425971) |
| 38 | 05/10/2005 | (425972) |
| 39 | 06/10/2005 | (425973) |
| 40 | 07/11/2005 | (446431) |
| 41 | 07/19/2005 | (399179) |
| 42 | 08/05/2005 | (446432) |
| 43 | 08/08/2005 | (402075) |
| 44 | 08/11/2005 | (379839) |
| 45 | 08/29/2005 | (403489) |
| 46 | 09/08/2005 | (406526) |
| 47 | 09/14/2005 | (431577) |
| 48 | 09/19/2005 | (446433) |
| 49 | 10/13/2005 | (479017) |
| 50 | 11/07/2005 | (479018) |
| 51 | 12/06/2005 | (479019) |
| 52 | 01/12/2006 | (479020) |
| 53 | 01/31/2006 | (479015) |
| 54 | 03/07/2006 | (479016) |
| 55 | 04/24/2006 | (504939) |
| 56 | 05/22/2006 | (504940) |
| 57 | 06/26/2006 | (504941) |
| 58 | 06/27/2006 | (466297) |
| 59 | 06/29/2006 | (482703) |
| 60 | 06/29/2006 | (483350) |
| 61 | 07/07/2006 | (484077) |
| 62 | 07/07/2006 | (483164) |
| 63 | 07/07/2006 | (483912) |

64 07/07/2006 (484031)

65 07/07/2006 (484215)

| | | |
|-----|------------|----------|
| 66 | 07/07/2006 | (482948) |
| 67 | 07/07/2006 | (483793) |
| 68 | 07/07/2006 | (483467) |
| 69 | 07/07/2006 | (482790) |
| 70 | 07/07/2006 | (483421) |
| 71 | 07/07/2006 | (483684) |
| 72 | 07/07/2006 | (482877) |
| 73 | 07/07/2006 | (482532) |
| 74 | 07/07/2006 | (483586) |
| 75 | 07/07/2006 | (483073) |
| 76 | 07/15/2006 | (485481) |
| 77 | 07/15/2006 | (485326) |
| 78 | 07/21/2006 | (527242) |
| 79 | 07/21/2006 | (484852) |
| 80 | 08/11/2006 | (484888) |
| 81 | 08/15/2006 | (527243) |
| 82 | 09/01/2006 | (486445) |
| 83 | 09/01/2006 | (486181) |
| 84 | 09/01/2006 | (485141) |
| 85 | 09/01/2006 | (485828) |
| 86 | 09/01/2006 | (485201) |
| 87 | 09/25/2006 | (527244) |
| 88 | 10/06/2006 | (551045) |
| 89 | 10/10/2006 | (489836) |
| 90 | 11/14/2006 | (551046) |
| 91 | 12/11/2006 | (551047) |
| 92 | 01/12/2007 | (587596) |
| 93 | 01/23/2007 | (532996) |
| 94 | 01/23/2007 | (533358) |
| 95 | 02/06/2007 | (538705) |
| 96 | 02/16/2007 | (587590) |
| 97 | 02/16/2007 | (587591) |
| 98 | 03/15/2007 | (537134) |
| 99 | 03/22/2007 | (587592) |
| 100 | 03/29/2007 | (543325) |
| 101 | 04/23/2007 | (587593) |
| 102 | 04/30/2007 | (538648) |
| 103 | 04/30/2007 | (536649) |
| 104 | 05/31/2007 | (539880) |
| 105 | 06/11/2007 | (587595) |
| 106 | 06/11/2007 | (587594) |
| 107 | 06/14/2007 | (561268) |
| 108 | 08/28/2007 | (571079) |
| 109 | 09/26/2007 | (593555) |
| 110 | 10/08/2007 | (570548) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | | | |
|--------------|---|----------|-----------------|----------|
| Date | 08/13/2004 | (250551) | | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 122, SubChapter B 122.145(2)(A) | | | |
| Description: | RE failed to include the deviations related to the gas turbines operation in the semi-annual deviation report | | | |
| Date | 09/30/2004 | (363738) | | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a)[G] | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 10/31/2004 | (388434) | | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a)[G] | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 11/30/2004 | (388435) | | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a)[G] | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 12/31/2004 | (388436) | | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a)[G] | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 07/20/2005 | (399179) | | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 117, SubChapter B 117.216(a)(1)[G] | | | |

Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.216(a).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter H 101.359[G]
Description: Failure to comply with the requirements as found in 30 TAC 101.359(a) involving submittal of ECT reports.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.213(a)(1)(B)(ii)
Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.213(a)(1)(B)(ii).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter B 117.219(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
Rqmt Prov: OP FOP O-01735 SC 5A
PERMIT NSR Permit 56212 SC 7F
Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.219(b)(2).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.611(a)[G]
30 TAC Chapter 116, SubChapter F 116.611(b)
Description: Failure to comply with the requirements as found in 30 TAC Chapter 116.611(a) and (b).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)
Rqmt Prov: OP O-01735, SC4A
Description: Failure to comply with the requirements as found in 40 CFR Chapter 60 Part 60.7(c).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.219(d)(1)[G]
Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.219(d).
Date 08/05/2005 (402075)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT TPDES Permit No. 04330-000
Description: Failure to calibrate the flow meter annually, as required.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to maintain a temperature log for the sample storage refrigerator.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT 04330-000
Description: Failure to maintain compliance with the self-monitored effluent limitations for Outfall 001.

Date 01/11/2006 (438807)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]
Description: Notification for recycling was not done.
Date 06/30/2006 (527242)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 03/30/2007 (543325)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT No. 75225, Special Condition No. 1
Description: Faulty wiring to the CO fire protection system caused Gas Turbine No. 3 to trip and release unauthorized emissions of NOx.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
Description: Regulated Entity failed to include permit number on the Incident Report.

F. Environmental audits.

Notice of Intent Date: 04/11/2003 (34960)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AIR LIQUIDE LARGE INDUSTRIES
U.S. LP
RN100233998**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1734-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Air Liquide Large Industries U.S. LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical plant at 11400 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Sixty-Eight Dollars (\$2,068) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid One Thousand Six Hundred Fifty-Five Dollars (\$1,655) of the administrative penalty and Four Hundred Thirteen Dollars (\$413) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to comply with permitted emissions limits, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit No. 73110, Special Condition No. 1, as documented during an investigation conducted on September 5, 2007. Specifically, an emissions event occurred on June 20, 2007 at the Steam Methane Reformer (Emission Point No. SMRSTACK) that lasted for 21 hours, resulting in the release of 766.29 pounds ("lbs") of nitrogen oxide. The authorized limit was 36.49 pounds per hour ("lbs/hr"). Since this emissions event could have been avoided by good operation practices and was improperly reported, it failed to meet the demonstrations for affirmative defense as found in 30 TEX. ADMIN. CODE § 101.222.
2. Failed to timely submit an initial report for an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 5, 2007. Specifically, the initial report was not submitted within 24 hours after the discovery of the event.
3. Failed to submit a complete and accurate initial report for an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(2)(H) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 5, 2007. Specifically, on the initial report, the Respondent did not identify the best known cause of the emissions event.

4. Failed to submit a complete and accurate initial report for an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(2)(I) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 5, 2007. Specifically, on the initial report, the Respondent did not submit the actions taken to correct the emissions event.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Air Liquide Large Industries U.S. LP, Docket No. 2007-1734-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement improvements to training, design, operation, or maintenance procedures and reporting practices in order to address the June 20, 2007 emissions event and inaccurate and untimely report submitted in conjunction with the event, and to prevent the reoccurrence of similar incidents; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

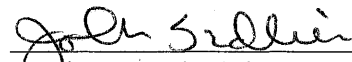
Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

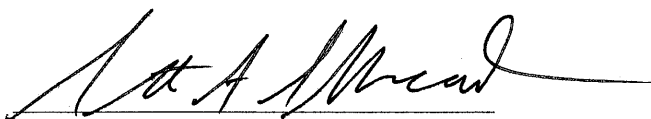
3/7/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1-11-08
Date

SCOTT A. SWAFFORD

Name (Printed or typed)
Authorized Representative of
Air Liquide Large Industries U.S. LP

Zone Production Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Detailed description of Figure 1: The graph plots 'Percentage of total catch' on the y-axis (0-100) against 'Percentage of total effort' on the x-axis (0-100). Five species are shown: Yellow perch, Rock bass, White perch, Striped bass, and Rockfish. Yellow perch shows a high catch percentage for low effort (around 80% catch for 10% effort). Rock bass, White perch, and Striped bass show a more linear relationship, with catch percentage increasing proportionally with effort percentage. Rockfish shows a low catch percentage for low effort, which increases significantly as effort increases, reaching about 80% catch for 90% effort.

| Species | Percentage of total effort | Percentage of total catch |
|--------------|----------------------------|---------------------------|
| Yellow perch | 10 | 80 |
| Yellow perch | 20 | 40 |
| Yellow perch | 30 | 20 |
| Yellow perch | 40 | 10 |
| Yellow perch | 50 | 5 |
| Yellow perch | 60 | 3 |
| Yellow perch | 70 | 2 |
| Yellow perch | 80 | 1 |
| Yellow perch | 90 | 0.5 |
| Yellow perch | 100 | 0 |
| Rock bass | 10 | 10 |
| Rock bass | 20 | 20 |
| Rock bass | 30 | 30 |
| Rock bass | 40 | 40 |
| Rock bass | 50 | 50 |
| Rock bass | 60 | 60 |
| Rock bass | 70 | 70 |
| Rock bass | 80 | 80 |
| Rock bass | 90 | 90 |
| Rock bass | 100 | 100 |
| White perch | 10 | 10 |
| White perch | 20 | 20 |
| White perch | 30 | 30 |
| White perch | 40 | 40 |
| White perch | 50 | 50 |
| White perch | 60 | 60 |
| White perch | 70 | 70 |
| White perch | 80 | 80 |
| White perch | 90 | 90 |
| White perch | 100 | 100 |
| Striped bass | 10 | 10 |
| Striped bass | 20 | 20 |
| Striped bass | 30 | 30 |
| Striped bass | 40 | 40 |
| Striped bass | 50 | 50 |
| Striped bass | 60 | 60 |
| Striped bass | 70 | 70 |
| Striped bass | 80 | 80 |
| Striped bass | 90 | 90 |
| Striped bass | 100 | 100 |
| Rockfish | 10 | 5 |
| Rockfish | 20 | 10 |
| Rockfish | 30 | 15 |
| Rockfish | 40 | 20 |
| Rockfish | 50 | 30 |
| Rockfish | 60 | 40 |
| Rockfish | 70 | 50 |
| Rockfish | 80 | 60 |
| Rockfish | 90 | 80 |
| Rockfish | 100 | 100 |

Robert B. Lewis

— *Journal of the American Medical Association*, 1997

Cambridge, Mass.